

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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BILL LIETZKE,

Plaintiff,

v.

COUNTY OF MONTGOMERY, et al.,

Defendants.

Case No. 3:14-cv-00197-MMD-WGC

ORDER ACCEPTING AND ADOPTING  
REPORT AND RECOMMENDATION  
OF MAGISTRATE JUDGE  
WILLIAM G. COBB

Before the Court is the Report and Recommendation of United States Magistrate Judge William G. Cobb (dkt. no. 4) ("R&R") relating to plaintiff's application to proceed *in forma pauperis* (dkt. no. 1) and *pro se* complaint (dkt. no. 1-1). No objection to the R&R has been filed.

This Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge's report and recommendation, then the court is required to "make a *de novo* determination of those portions of the [report and recommendation] to which objection is made." 28 U.S.C. § 636(b)(1). Where a party fails to object, however, the court is not required to conduct "any review at all . . . of any issue that is not the subject of an objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate judge's report and recommendation where no objections have been filed. See *United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review employed by the district court when reviewing a report and recommendation to

1 which no objections were made); see also *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219,  
2 1226 (D. Ariz. 2003) (reading the Ninth Circuit's decision in *Reyna-Tapia* as adopting the  
3 view that district courts are not required to review "any issue that is not the subject of an  
4 objection."). Thus, if there is no objection to a magistrate judge's recommendation, then  
5 the court may accept the recommendation without review. See, e.g., *Johnstone*, 263 F.  
6 Supp. 2d at 1226 (accepting, without review, a magistrate judge's recommendation to  
7 which no objection was filed).

8 Nevertheless, this Court finds it appropriate to engage in a *de novo* review to  
9 determine whether to adopt Magistrate Judge Cobb's R&R. The Magistrate Judge  
10 recommended granting Plaintiff's application to proceed *in forma pauperis* because his  
11 monthly expenses and debt make it unlikely he would be able pay the filing fee. The  
12 Magistrate Judge recommended dismissing the complaint with prejudice because  
13 Plaintiff seeks to file a criminal charge. Upon reviewing the R&R and Plaintiff's filings,  
14 this Court finds good cause to accept and adopt the Magistrate Judge's R&R in full.


15 It is therefore ordered, adjudged and decreed that the Report and  
16 Recommendation of Magistrate Judge William G. Cobb (dkt. no. 4) be accepted and  
17 adopted in its entirety.

18 It is ordered that plaintiff's application to proceed *in form pauperis* (dkt. no. 1)  
19 without having to prepay the filing fee is granted.

20 It is further ordered that the Clerk shall detach and file the complaint (dkt. no. 1-1).

21 It is further ordered that the complaint be dismissed with prejudice.

22 DATED THIS 1<sup>st</sup> day of October 2014.

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25 MIRANDA M. DU  
26 UNITED STATES DISTRICT JUDGE  
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